

REMARKS

The above amendments and these remarks are responsive to the Office action mailed March 13, 2006. Claims 1-4, 7-11, 13-15, 17-18, and 20-25 are pending in the application. In the Office action, claims 11, 13-15, and 17 are rejected under 35 U.S.C. § 112. Claims 1, 7, and 10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Alonso (U.S. Patent No. 3,375,604). Claims 1-3, 7-10, and 25 are rejected under 35 U.S.C. § 102(b) as being anticipated by Dasher (U.S. Patent No. 2,791,867). Claims 11, 13-15, and 17 are rejected under 35 U.S.C. § 102(b) as being anticipated by Salosky (U.S. Patent No. 2,803,920). Claims 1-4, 7-15, 17-18, and 20-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gray (U.S. Patent No. 2,587,142) in view of Salosky or Sims et al. (U.S. Patent No. 4,176,492). Claim 4 is rejected under 35 U.S.C. § 103(a) as being anticipated by Dasher.

In view of the amendments above, and the remarks below, applicants respectfully request reconsideration of the application under 37 C.F.R. § 1.111 and allowance of the pending claims.

Rejections Under 35 U.S.C. §112

Claims 11, 13-15, and 17 are rejected under 35 U.S.C. § 112 on the grounds that claim 11 was indefinite and added new matter. Claim 11, as amended, recites a first component adapted to rotate and support at least one wheel, and a second component and a third component adapted to magnetically couple with one another and operatively retain the first component between the second and third components, wherein the first component is magnetically coupled to at least one of the second and third components via a magnetic portion that extends from the at least one of the second and third components in a direction substantially perpendicular to an axis of rotation of the first component. Support for the amendment is found at page 7, lines 6-7; and Figs. 6-8 which show

pedestals 42 extending from chassis 18 in a direction substantially perpendicular to the axis of rotation of axle 22. Applicants believe amended claim 11 complies with the written description requirement and distinctly claims the subject matter which applicants regard as the invention.

Rejections Under 35 U.S.C. §102

Claims 1, 7 and 10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Alonso. Claim 1, as amended, includes a magnetic portion adapted to couple a first component and a second component, an alignment assembly spaced away from the magnetic portion and adapted to align the first and second components to a predetermined position relative to one another, wherein the alignment assembly includes a post that protrudes from one of the first and second components and an aperture in the other of the first and second components, and a third component supported between the first and second components and configured to rotate relative to the first and second components. Support for the amendment is found at page 4, lines 14-19; page 5, line 16 to page 6, line 2; and Figs. 2, 8-9.

Applicants respectfully submit that Alonso fails to disclose or suggest a third component supported between the first and second magnetically coupled components and configured to rotate relative to the first and second components, as recited by amended claim 1. Specifically, in the wagon shown in Figs. 6-9 of Alonso, axle 106 extends under the body of the wagon and is magnetically coupled to wheels 116. As shown in Fig. 9, the axle appears to pass through apertures in the vehicle body 127. Thus, since claim 1 recites at least the aforementioned elements not disclosed by Alonso, the reference does not and cannot anticipate the toy recited in claim 1. For at least these reasons, applicants respectfully request the withdrawal of the rejection of claim 1 under 35 U.S.C. § 102(b). Claims 7 and 10 depend from and further limit claim 1 and

thus should be allowed when amended claim 1 is allowed.

Claims 1-3, 7-10, and 25 are rejected under 35 U.S.C. § 102(b) as being anticipated by Dasher. Dasher discloses a magnet 30 to secure an airplane member to a car member (col. 3, ll 24-50). Dasher fails to teach, disclose, or suggest a third component supported between first and second magnetically coupled components and configured to rotate relative to the first and second components. For at least these reasons, applicants respectfully request the withdrawal of the rejection of claim 1 under 35 U.S.C. § 102(b). Claims 3, 7-10, and 25 depend from and further limit claim 1 and thus should be allowed when amended claim 1 is allowed.

Claims 11, 13-15, and 17 are rejected under 35 U.S.C. § 102(b) as being anticipated by Salosky. Claim 11, as amended, recites a first component adapted to rotate and support at least one wheel, and a second component and a third component adapted to magnetically couple with one another and operatively retain the first component between the second and third components, wherein the first component is magnetically coupled to at least one of the second and third components via a magnetic portion that extends from the at least one of the second and third components in a direction substantially perpendicular to an axis of rotation of the first component.

Applicants respectfully submit that Salosky fails to disclose the subject matter of amended claim 11. In Salosky, the shaft that supports wheel 13 appears to be permanently coupled to vehicle body 12 by passing through apertures in the body rather than being magnetically coupled to the body. Further, fender 15 is magnetically coupled to body 12, but such coupling does not operatively retain the shaft between the body and the fender. Since amended claim 11 recites at least the aforementioned elements not disclosed by Salosky, the reference does not and cannot anticipate the toy recited in claim 11. For at least these reasons, applicants respectfully request the withdrawal of the rejection of claim 11 under 35 U.S.C. §

102(b). Claims 13-15 and 17 depend from and further limit claim 11 and thus should be allowed when amended claim 11 is allowed.

Rejections Under 35 U.S.C. §103

Claims 1-4, 7-14, 15, 17, 18, and 20-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gray in view of Salosky or Sims et al. Claim 4 is further rejected under 35 U.S.C. § 103(a) as being unpatentable over Dasher.

In rejecting these claims, the Office Action generally refers to the references as teaching magnetic toys and toys that may represent vehicles. Gray discloses a model automobile assembly kit that uses screw-threaded fastenings (column 2, lines 18-21, 30-35, 48-53). Salosky discloses a toy vehicle having detachable front and rear fenders that are coupled to the vehicle body with magnets (col. 1, lines 44-49, 56-65). Sims et al. discloses an articulating toy having spherical magnetizable ball joints (column 2, lines 54-58; column 3, lines 64-65).

Applicants respectfully submit that Gray, Salosky, and Sims et al., either individually or in combination, fail to disclose, teach, or suggest a toy including a third component supported between the first and second magnetically coupled components and configured to rotate relative to the first and second components, as recited in amended claim 1. For at least these reasons, applicants respectfully request the withdrawal of the rejection of amended claim 1 under 35 U.S.C. § 103(a). Claims 2-4 and 7-10 depend from and further limit claim 1 and thus should be allowed when amended claim 1 is allowed.

Similarly, the combination of Gray with Salosky or Sims et al. fails to disclose, teach, or suggest a second component and a third component adapted to magnetically couple with one another and operatively retain the first component between the second and third components,

wherein the first component is magnetically coupled to at least one of the second and third components via a magnetic portion that extends from the at least one of the second and third components in a direction substantially perpendicular to an axis of rotation of the first component, as recited in amended claim 11. For at least these reasons, applicants respectfully request the withdrawal of the rejection of claim 11 under 35 U.S.C. § 103(a). Claims 13-15 and 17 depend from and further limit claim 11 and thus should be allowed when amended claim 11 is allowed.

Claim 18, as amended, includes a third rotatable component positioned between a portion of the first and second components, wherein the first component may be selectively magnetically coupled to the second component, thereby securing the third component in a rotatable configuration between the first and second components, and the third rotatable component represents a wheel and axle assembly. Support for the amendment is found at page 4, lines 4-19; page 5, line 16 to page 6, line 2; and Figs. 2, 8-9.

The combination of Gray with Salosky or Sims et al. fails to disclose, teach, or suggest the toy vehicle of amended claim 18. For at least these reasons, applicants respectfully request the withdrawal of the rejection of amended claim 18 under 35 U.S.C. § 103(a). Claims 20-24 depend from and further limit claim 18 and thus should be allowed when amended claim 18 is allowed.

New Claims

New independent claim 26 recites a toy vehicle comprising a vehicle body, a cockpit adapted to couple to the vehicle body and having a magnetic portion positioned between a pair of axle supports, an alignment assembly configured to align the cockpit with the vehicle body, an axle configured to support one or more wheels, and a chassis adapted to retain the axle within the axle

supports. New claims 27-29 depend from and further limit claim 26. Support for new claims 26-29 is found at page 4, lines 4-19; page 5, lines 10-20; page 6, line 20 to page 8, line 14; page 9, lines 8-20; and Figs. 1, 3-9.


The prior art of record, considered individually or in combination, does not disclose, teach, or suggest the subject matter of new claim 26. Accordingly, applicants request the allowance of new claims 26-29.

Applicants believe that this application is now in condition for allowance, in view of the above amendments and remarks. Accordingly, applicants respectfully request that the Examiner issue a Notice of Allowability covering the pending claims. If the Examiner has any questions, or if a telephone interview would in any way advance prosecution of the application, please contact the undersigned attorney of record.


Respectfully submitted,

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, to: Mail Stop AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on May 9, 2006.


Merissa R. Thompson

KOLISCH HARTWELL, P.C.



Phaedra E. Paul

Registration No. 56,366

Customer No. 23581

Agent for Applicant(s)/Assignee

520 S.W. Yamhill Street, Suite 200

Portland, Oregon 97204

Telephone: (503) 224-6655

Facsimile: (503) 295-6679